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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,594	01/28/2002	Michael P. Ronan		4093

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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 08/11/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/058,594

Applicant(s)

RONAN, ET AL.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 23-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 23-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.

Applicant traverses that the restriction between the article/method would not impose a serious burden. It is submitted that a process claim would require a search in other class, i.e., 493. Furthermore, the method claims has other limitations, e.g., the folding of the blank, that is specific to the method claims and consideration of these limitations would impose serious burden.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the various coated and uncoated regions should be shown in different shade areas, the adhesive in claim 1, the uncoated stripe going through the knock-outs, and the coating in claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Furthermore, a cross section through each of the knock-outs and the punch scores must be shown to show what comprise these elements.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are confusing with respect to the recitation "coated" and/or "uncoated".

Coated and/or uncoated with what?

It is unclear what comprises "uncoated knock-outs". Are these holes or perforated regions in the blank? The specification fails to shed any meaning to the term.

It is unclear whether the coatings recited in claim 10 are the same as the coatings as previously recited in claim 1. If yes, this is a double inclusion.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 6, 7, 14, 16, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cassidy (5029714), or in the alternative, over Cassidy in view of Wein (5044503). Cassidy teaches a folding carton having a first panel 28 having a plurality of punch scores at portion 52, a second panel 34 having a surface facing the surface of the first panel and it is at least partially coated with abseal at areas 46 and plurality of uncoated knock-outs at portion 50.

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Please note that Cassidy presented adhesive as an alternative to PET, see col. 3, line 1. Thus, in this alternative, then portions 50 are uncoated areas for adhesive.

In the alternative, to the degree applicant argues that areas 46 and 48 are not coated areas as claimed. Wein teaches that it is known in the art to coat abseal ink between adhesive areas (col. 2, lines 5-6). It would have been obvious to one of ordinary skill in the art to provide abseal ink in the areas 46 and 48 between adhesive areas in Cassidy as taught by Wein to provide the an alternative abseal material.

Regarding claim 6, panel 28 is the adhesive panel, and panel 34 is the right panel as claimed.

Regarding claim 7, Cassidy teaches a front panel 16, a left panel 24 hingedly attached to the front panel 16, and a back panel 14 hingedly attached to the left panel and the adhesive panel as claimed.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cassidy. It would have been obvious to one of ordinary skill in the art to use water-based adhesive in Cassidy to provide an alternative adhesive.

9. Claims 5-10, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cassidy rejection, as set forth in paragraph 6, in view of Van Dyke et al. (3096918). Van Dyke

teaches that it is known in the art to provide a container with a sealing system on a container with an adhesive panel 27 and a right panel 16. It would have been obvious to one of ordinary skill in the art to use the sealing system of Cassidy in the container of Van Dyke to provide the desired sealing for the container.

Regarding claim 8, it would have been obvious to one of ordinary skill in the art to move the one of the closure flaps 22 so that one of them is hingedly attached to a back panel 14.

Regarding claim 10, note that there is a coating 13 on both sides of the container as shown in Fig. 3.

10. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cassidy in view of Jensen (6026956). Cassidy meets all claimed limitations except for the UV varnish. Jensen teaches that it is known in the art to provide varnish for coating (col. 2, lines 53). It would have been obvious to one of ordinary skill in the art to provide coatings of UV varnish in Cassidy as taught by Jensen to provide the desired sealing material for the container.

Conclusion

11. In view of the 112 matters as set forth above, the allowability of claim(s) 2, 4, 12, 13, 15, 17 can not be determined at this time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone numbers for the


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organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai 
Primary Examiner
Art Unit 3727

August 6, 2003